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UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW
Working Group on
International Contract Practices
Thirty-first session
Vienna, 11 - 22 October 1999

PROVISIONAL AGENDA

1. Election of officers

2. Adoption of the agenda

3. Preparation of draft Convention on Assignment in Receivables Financing

4. Other business

5. Adoption of the report

Notes on the provisional agenda

At the present session, the Working Group on International Contract Practices continues its work on the preparation of a uniform law on assignment in receivables financing, pursuant to a decision taken by the Commission at its twenty-eighth session (Vienna, 2-26 May 1995). 1/ This is the eighth session devoted to the preparation of this uniform law, tentatively entitled the draft Convention on Assignment in Receivables Financing.

1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 17 (A/50/17), paras. 374-381.

The Commission's decision to undertake work on assignment in receivables financing was taken in response to suggestions made to it in particular at the UNCITRAL Congress, "Uniform Commercial Law in the 21st Century" (held in New York in conjunction with the twenty-fifth session, 17-21 May 1992). A related suggestion made at the Congress was for the Commission to resume its work on security interests in general, which the Commission at its thirteenth session (1980) had decided to defer for a later stage.

At its twenty-sixth to twenty-eighth sessions (1993 to 1995), the Commission discussed three reports prepared by the Secretariat concerning certain legal problems in the area of assignment of receivables (A/CN.9/378/Add.3, A/CN.9/397 and A/CN.9/412). Having considered those reports, the Commission concluded that it would be both desirable and feasible to prepare a set of uniform rules, the purpose of which would be to remove obstacles to receivables financing arising from the uncertainty existing in various legal systems as to the validity of cross-border assignments (in which the assignor, the assignee and the debtor would not be in the same country) and as to the effects of such assignments on the debtor and other third parties. 2/

At its twenty-fourth session (Vienna, 8-19 November 1995), the Working Group commenced its work by considering a number of preliminary draft uniform rules contained in a report of the Secretary-General entitled "Discussion and preliminary draft of uniform rules" (A/CN.9/412). At that session, the Working Group was urged to strive for a legal text aimed at increasing the availability of lower-cost credit (A/CN.9/420, para. 16).

At its twenty-ninth session (1996), the Commission had before it the report of the twenty-fourth session of the Working Group (A/CN.9/420). The Commission expressed appreciation for the work accomplished and requested the Working Group to proceed with its work expeditiously. 3/

At its twenty-fifth and twenty-sixth sessions (New York, 8-19 July and Vienna, 11-22 November 1996 respectively), the Working Group continued its work by considering different versions of the draft uniform rules contained in two notes prepared by the Secretariat (A/CN.9/WG.II/WP.87 and A/CN.9/WG.II/WP.89 respectively). At those sessions, the Working Group adopted the working assumptions that the text being prepared would take the form of a convention (A/CN.9/432, para. 28) and would include conflict-of-laws provisions (A/CN.9/434, para. 262).

At its thirtieth session (1997), the Commission had before it the reports of the twenty-fifth and twenty-sixth sessions of the Working Group (A/CN.9/432 and A/CN.9/434). The Commission noted that the Working Group had reached agreement on a number of issues and that the main outstanding issues included the effects of the assignment on third parties, such as the creditors of the

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2/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 (A/48/17), paras. 297-301; Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 (A/49/17), paras. 208-214; and Official Records of the General Assembly, Fiftieth Session, Supplement No. 17 (A/50/17), paras. 374-381.

3/ Ibid., Fifty-first Session, Supplement No. 17 (A/51/17), para. 234.

assignor and the administrator in the insolvency of the assignor. 4/ In addition, the Commission noted that the draft Convention had aroused the interest of the receivables financing community and Governments, since it had the potential of increasing the availability of credit at more affordable rates. 5/

At its twenty-seventh and twenty-eighth sessions (Vienna, 20-31 October 1997 and New York, 2-13 March 1998 respectively), the Working Group considered two notes prepared by the Secretariat (A/CN.9/WG.II/WP.93 and A/CN.9/WG.II/WP.96 respectively). At its twenty-seventh session, the Working Group had decided that basic priority rules of the draft Convention would be private international law rules and the substantive law priority rules of the draft Convention would be subject to an opt-in by States (A/CN.9/445, paras. 26-27), while, at its twenty-eighth session, the Working Group had adopted the substance of draft articles 14 to 16, dealing with the relationship between the assignor and the assignee, and 18 to 22, dealing with the relationship between the assignee and the debtor (A/CN.9/447, paras. 161-164).

At its thirty-first session (1998), the Commission had before it the report of the twenty-seventh and twenty-eighth sessions of the Working Group (A/CN.9/445 and A/CN.9/447). The Commission expressed appreciation for the work accomplished and requested the Working Group to proceed with its work expeditiously so as to complete its work in 1999 and submit the draft Convention for adoption by the Commission at its thirty-third session (2000). 6/

At its twenty-ninth and thirtieth sessions (Vienna, 5-16 October 1998 and New York, 1-12 March 1999 respectively), the Working Group considered three notes prepared by the Secretariat (A/CN.9/WG.II/WP.96, A/CN.9/WG.II/WP.98 and A/CN.9/WG.II/WP.102), as well as a note containing the report of a group of experts prepared by the Permanent Bureau of the Hague Conference on Private International Law (A/CN.9/WG.II/WP.99). At those sessions, the Working Group adopted the substance of the preamble and draft articles 1(1) and (2), 5(g) to (j), 18(5bis), 23 to 33 and 41 to 50 (A/CN.9/455, para. 17) and the title, the preamble and draft articles 1 to 24 (A/CN.9/456, para. 18).

At its thirty-second session (1999), the Commission had before it the report of the twenty-ninth and thirtieth sessions of the Working Group (A/CN.9/455 and A/CN.9/456). The Commission expressed appreciation for the work accomplished by the Working Group and requested the Working Group to proceed with its work expeditiously so as to make it possible for the draft Convention, along with the report of the next session of the Working Group, to be circulated to Governments for comments in good time and for the draft Convention to be considered by the Commission for adoption at its thirty-third session (2000). As regards the subsequent procedure for adopting the draft Convention, the Commission noted that it would have to decide at its next session whether it

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4/ Ibid., Fifty-second Session, Supplement No. 17 (A/52/17), para. 254.

5/ Ibid., para. 256.

6/ Ibid., Fifty-third Session, Supplement No. 17 (A/53/17), para. 230.

should recommend adoption by the General Assembly or by a diplomatic conference to be specially convened by the General Assembly for that purpose. 7/

The Working Group is composed of all States members of the Commission. These are: Algeria, Australia, Austria, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, China, Colombia, Egypt, Fiji, Finland, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Nigeria, Paraguay, Romania, Russian Federation, Singapore, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

Item 1. Election of officers

The Working Group, in accordance with its practice at previous sessions, may wish to elect a Chairman and a Rapporteur.

Item 3. Preparation of draft Convention on Assignment in Receivables Financing

The Working Group will have before it, and may wish to use as a basis for its deliberations, two notes by the Secretariat containing the draft Convention on Assignment in Receivables Financing, as adopted by the Working Group, as well as remarks and suggestions (A/CN.9/WG.II/WP.104). In addition, the Working Group will have before it the draft Commentary to the draft Convention on Assignment in Receivables Financing (A/CN.9/WG.II/WP.105).

The following documents will be made available at the session:

(a) Report of the Working Group on International Contract Practices on the work of its thirtieth session (A/CN.9/456);

(b) Note by the Secretariat: Revised articles of draft Convention on Assignment in Receivables Financing: remarks and suggestions (A/CN.9/WG.II/WP.102);

(c) Report of the Working Group on International Contract Practices on the work of its twenty-ninth session (A/CN.9/455);

(d) Proposal by the United States of America: Discharge of the Debtor by Payment. Proposed Revision of Articles 5, 16 and 18 (A/CN.9/WG.II/WP.100);

(e) Note by the Secretariat: Group of experts report prepared by the Permanent Bureau of the Hague Conference on Private International Law (A/CN.9/WG.II/WP.99);

(f) Note by the Secretariat: Revised articles of draft Convention on Assignment in Receivables Financing: remarks and suggestions (A/CN.9/WG.II/WP.98);

7/ Ibid., Fifty-fourth Session, Supplement No. 17 (A/54/17), para. [293].

(g) Report of the Working Group on International Contract Practices on the work of its twenty-eighth session (A/CN.9/447);

(h) Note by the Secretariat: Revised articles of draft Convention on Assignment in Receivables Financing (A/CN.9/WG.II/WP.96);

(i) Report of the Working Group on International Contract Practices on the work of its twenty-seventh session (A/CN.9/445);

(j) Note by the Secretariat: Revised articles of draft Convention on Assignment in Receivables Financing (A/CN.9/WG.II/WP.93);

(k) Report of the Working Group on International Contract Practices on the work of its twenty-sixth session (A/CN.9/434);

(l) Note by the Secretariat: Comments by the Observer of the Commercial Finance Association (A/CN.9/WG.II/WP.91);

(m) Note by the Secretariat: Comments of the Permanent Bureau of the Hague Conference on Private International Law (A/CN.9/WG.II/WP.90);

(n) Note by the Secretariat: Newly revised articles of draft uniform rules on assignment in receivables financing (A/CN.9/WG.II/WP.89);

(o) Report of the Working Group on International Contract Practices on the work of its twenty-fifth session (A/CN.9/432);

(p) Note by the Secretariat: Revised articles of draft uniform rules on assignment in receivables financing (A/CN.9/WG.II/WP.87);

(q) Report of the Working Group on International Contract Practices on the work of its twenty-fourth session (A/CN.9/420);

(r) Report of the Secretary-General: Assignment in receivables financing. Discussion and preliminary draft of uniform rules (A/CN.9/412);

(s) Report of the Secretary-General: Legal aspects of receivables financing (A/CN.9/397);

(t) Note by the Secretariat: Assignment of claims (A/CN.9/378/Add.3).

Item 5. Adoption of the report

The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-third session of the Commission (to be held in New York from 12 June to 7 July 2000).

Meetings

The session of the Working Group will take place from 11 to 22 October 1999 at the Vienna International Centre. There will be 8 working days available for consideration of the agenda items at the session. No meeting will be scheduled for Thursday, 21 October, in order to allow for the preparation of the draft report of the session. Friday, 22 October, will be reserved for the adoption of the report. Meeting hours will be from 9:30 to 12:30 and from 14:00 to 17:00, except on Monday, 11 October when the session will commence at 10:00.

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